

1 SENATE BILL NO. 443

2 INTRODUCED BY M. TAYLOR

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAX CREDIT FOR INDIVIDUAL INCOME TAXES
5 PAID ON A CAPITAL GAIN FROM THE SALE OF A CONTROLLING INTEREST IN INCOME-PRODUCING
6 PROPERTY; PROVIDING THAT THE CREDIT IS TO BE TAKEN EQUALLY OVER A 7-YEAR PERIOD
7 FOLLOWING THE YEAR IN WHICH THE TAX ON THE CAPITAL GAIN IS PAID; PROVIDING THAT THERE
8 IS NO CARRYFORWARD OR CARRYBACK OF THE CREDIT; AND PROVIDING AN APPLICABILITY DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **NEW SECTION. Section 1. Capital gain credit for sale of income-producing asset -- installments**

13 **over seven years.** (1) An individual is allowed a credit against the taxes imposed by 15-30-103 in an amount
14 equal to taxes paid by the individual on capital gains from the sale of a controlling interest in income-producing
15 property. The credit is to be taken in seven equal installments beginning the tax year following the year in which
16 the sale is reported and the tax on the sale is paid. The annual credit installment may not exceed the taxpayer's
17 income tax liability for the year in which it is allowed. The annual allowable portion of the credit may not be
18 carried forward or backward to any other tax year.

19 (2) For the purposes of determining the amount of tax paid on the capital gain, the taxpayer is presumed
20 to have paid taxes on the qualifying sale amount at the top marginal rate set forth in 15-30-103 for the year in
21 which the tax on the sale was reported and the tax on the sale was paid. If the amount of the capital gain
22 exceeds the amount of income the taxpayer had subject to the top marginal rate, the rate for the balance of the
23 capital gain is presumed to have been paid at the lesser rates in the appropriate declining rate brackets.

24 (3) To be eligible for the credit under this section, the property that was sold must be income-producing
25 property located in Montana of which the taxpayer owned at least one-half at the time of its sale and the
26 taxpayer's involvement in the production of income from the property was not a passive activity, as defined in
27 section 469(c) of the Internal Revenue Code, 26 U.S.C. 469(c).

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29 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
30 integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

